



COMMUNITY REINVESTMENT ASSOCIATION

of NORTH CAROLINA

April 19, 2004

Public Information Room
Office of the Comptroller of the Currency
250 E Street, S.W.
Mailstop 1-5
Washington, D.C. 20219
Docket Number 04-05

Ms. Jennifer J. Johnson
Secretary, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Docket No. R-1180

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Docket Number 2003-67

Attention: ~~Comment~~ regarding the Economic Growth and Regulatory Paperwork Reduction Act of 1996

To Whom It ~~May~~ Concern:

The Community Reinvestment Association of North Carolina (**CRA-NC**) ~~submits~~ comments in response to the Notice of Regulatory Review as required by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) of 1996. We request that the federal banking agencies retain and strengthen their regulations concerning Fair Housing, Equal Credit Opportunity Act (ECOA), Home Mortgage Disclosure Act (HMDA), Truth in Lending Act (TILA) and Unfair or Deceptive Acts or Practices,

CRA-NC is a nonprofit advocacy agency dedicated to building and protecting community wealth by changing the philosophies and practices of financial institutions. Using the Community Reinvestment Act as a guide, CRA-NC works with banks to increase their lending, investments, and services to minority and low- and moderate-income communities. In the past five years CRA-NC has catalyzed \$45 billion in lending commitments to low- and moderate-income communities from North Carolina's large and small financial institutions. It has also played a key role in fighting predatory lending and payday lending at the state and national levels in both the corporate and public policy arenas.

CRA-NC staff attended the inter-agency consumer and community outreach meeting concerning EGRPRA in Arlington, Virginia, on February 20, 2004. From our participation in that meeting and perusal of comment letters

submitted by the financial industry, **we are** concerned that "easing regulatory **burden**" has become a euphemism for stripping consumer protections. We therefore urge the banking agencies to **thoughtfully** consider the recommendations of consumer p u p s at the inter-agency meeting in February and **use** this opportunity to strengthen and expand consumer protections.

The Fair Housing Act, the **Home Mortgage Disclosure Act**, the Equal Credit **Opportunity** Act, and the **Truth-in-Lending** Act are intended to eliminate abusive and **discriminatory** lending. In light of the recent decision by the Office of the Comptroller of the Currency to preempt all state anti-predatory lending legislation, these protections have become even more important to consumers. **Rather than** streamline these protections, **CRA-NC** would like the regulators to strengthen consumer protections by expanding the data reporting requirements.

Home Mortgage Disclosure Act

In response to concerns that financial institutions contributed to the decline of **certain** communities because they failed to provide adequate home financing with reasonable terms and conditions, Congress passed the Home Mortgage Disclosure Act (**HMDA**) requiring banks, savings and loans associations, credit unions, and other financial institutions to publicly report detailed data on their home lending activity. **HMDA** was designed to provide the public with sufficient information to determine whether institutions are fulfilling their obligations to serve the housing needs of all of the communities and neighborhoods in which they are located. **HMDA** has been essential to increasing the amount of lending to **low-income** and minority communities. Regulators should not exempt more institutions from reporting **HMDA** data. Exempting more institutions from data reporting will thwart **HMDA's** purpose of determining if institutions are serving credit needs.

In rural areas, small lenders play an important role in the local economy. However, currently, small lenders (with assets under \$33 million) and lenders with offices in non-metropolitan areas are exempt from **HMDA** data reporting requirements. Data for rural areas is also incomplete, particularly information on the census tract location of loans. If banks and thrifts have assets under \$250 million dollars (or are part of holding companies under \$1 billion dollars), they have to report the census tract location for loans in rural, non-metropolitan areas. These small lenders may be significant contributors to the local mortgage market. The importance of the bank to the community, not just asset size, should also determine **HMDA** reporting.

Rather than reduce the number of institutions covered by **HMDA**, regulators need to make **HMDA** more effective by including pricing information on all loans, critical loan terms (existence of prepayment penalties, for example), and key underwriting variables such as loan-to-value ratios and debt-to-income ratios. With the rise in subprime and predatory lending, the lending landscape has changed. **Low-income** and minority neighborhoods that may have been "redlined" and had no access to credit in the past may still find themselves "redlined" in terms of access to prime credit with the same pricing, terms, and conditions as other neighborhoods. **HMDA** currently lacks variables that enable the general public to assess if lenders are providing credit that is priced fairly and has reasonable terms to all communities.

Technology has improved to such an extent that even small lenders would be confronted with minimal burden in collecting **HMDA** data. Also, all lenders would be able to readily collect additional data items. Overall, the benefits of expanded **HMDA** data requirements would greatly outweigh the burdens and would be true to **HMDA's** statutory purpose of assessing the extent to which credit needs are met.

Equal Credit Opportunity Act

The Equal Credit Opportunity Act and Regulation B prohibits discrimination against an applicant because of the applicant's race, color, sex, religion, national origin, marital status, age or receipt of public assistance. Currently, the Federal Reserve's Regulation B prohibits lenders from collecting demographic data including race and gender of business owners seeking small business loans, except for limited self-assessment purposes. The Federal Reserve has asserted that their regulation guarantees that the loan process remains colorblind for all applicants. In reality, however, this regulation has become a shield behind which some banks hide their lack of serving women and minority-owned businesses. The publicly available data provided by **HMDA** has been instrumental in increasing access to home loans for formerly neglected borrowers. Likewise, the federal agencies would achieve **ECOA's** statutory purpose of combating discrimination if they allowed banks to voluntarily collect and report information on

the demographics of their small **business** borrowers.

The total number of small business loans increased **24** percent ~~from~~ 2001 to **2002**. However, despite the overall increase, ~~the~~ number of small business loans made to businesses ~~with~~ revenue under **\$1 million** continues to plummet. Lenders issued about **31** percent of their loans to businesses ~~with~~ revenues under **\$1 million in 2002**. This is ~~a~~ substantial decrease ~~from~~ **40** percent in 2001 and **60** percent in 1999. Similarly, lending to businesses in low- and moderate- income census tracts remains stagnant ~~as~~ the percent of loans made to businesses in ~~these~~ communities ~~either~~ decreased or ~~remained~~ the same over ~~the~~ last few years. CRA-NC believes that ~~just~~ like improvements to HMDA, enhancements to ECOA to allow lenders to collect demographic data ~~will~~ expand lending to traditionally underserved communities and borrowers.

Truth in Lending

In 2001, the Federal Reserve Board made valuable improvements to their regulation implementing the Home Ownership and ~~Equity~~ Protection Act (HOEPA), which amended TILA. Among other benefits, the changes applied HOEPA's protections to ~~more~~ subprime loans, including most loans with single ~~premium~~ credit insurance. Since abusive lending continues to increase, the federal agencies ~~must~~ preserve the changes to HOEPA.

The regulatory agencies must ~~also~~ preserve the critical right of rescission under TILA. This right empowers borrowers at the closing table, enabling them to bargain ~~wirh~~ lenders and eliminate onerous ~~terms~~ and conditions in their loans. The right of rescission provides vital protection in the event ~~that~~ a borrower desires to cancel ~~an~~ abusive loan up to three days after closing, and has been essential to the fight against predatory lending. As discussed at the inter-agency meeting for consumers and communities, there are provisions in the law to help consumers who need their money right away. The benefit of the right of rescission protection far outweighs any inconvenience.

Conclusion

EGRPRA should address more than easing regulatory burden. - it should also ensure that consumers are protected. The regulatory agencies ~~must not~~ weaken HMDA, ECOA, TILA, or protections in regulations implementing the Fair Housing and Unfair and Deceptive Practices Acts. We do not want "easing regulatory burden" to result in fewer consumer protections.

Sincerely,



Peter Skillern
Executive Director